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4 CAROL THOMAS,
5
6 Plaintiff,

7 v.
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9 SAN FRANCISCO HOUSING
10 AUTHORITY, et al.,
11 Defendants.

Case No. 16-cv-03819-EDL

REPORT AND RECOMMENDATION

Re: Dkt. No. 1

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13 On July 7, 2016, pro se Plaintiff Carol Thomas filed a complaint and sought leave to
14 proceed in forma pauperis (“IFP”). On July 13, 2016, this Court granted Plaintiff’s IFP request
15 and indicated that it would separately determine compliance with 28 U.S.C. § 1915(e)(2), which
16 requires the court to “dismiss the case at any time if the court determines that . . . the action or
17 appeal . . . is frivolous.” On July 14, 2016, Plaintiff declined magistrate judge jurisdiction. This
18 Court therefore issues the following Report and Recommendation to dismiss the complaint *sua*
19 *sponete* with leave to amend, and hereby reassigns the matter to a district court judge.

20 For purposes of 28 U.S.C. § 1915, a frivolous claim is one that lacks an arguable basis in
21 either law or fact. Neitzke v. Williams, 490 U.S. 319, 325, 109 S. Ct. 1827, 1831-32 (1989).
22 Dismissal on these grounds is often ordered sua sponte prior to the issuance of process, so as to
23 spare prospective defendants the inconvenience and expense of answering such complaints. Id.,
24 490 U.S. at 324, 109 S. Ct. at 1831. Where a litigant is acting pro se and the court finds the
25 litigant’s complaint frivolous within the meaning of 28 U.S.C. § 1915(e)(2), the court must give
26 the litigant notice of the deficiencies of the complaint and an opportunity to amend before final
27 dismissal, unless it is absolutely clear that the deficiencies of the complaint could not be cured by
28 amendment. Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987); Eldridge v. Block, 832 F.2d

1 1132, 1135-37 (9th Cir. 1987).

2 Plaintiff's complaint against the San Francisco Housing Authority and Amanda Vernon
3 mentions "disparate treatment based on race discrimination" but does not allege Plaintiff's race or
4 provide any factual basis for a claim of racial discrimination. Plaintiff also mentions retaliation
5 based on a prior housing complaint, and alleges some actions taken against her including failing to
6 correct an amount of money owed and refusing to pay for damage to her carpet, but the nexus
7 between these actions and any earlier housing complaint is entirely unclear. The Complaint
8 contains no allegations as to the individual defendant and it is unclear why this individual is a
9 proper defendant. The Complaint fails to include a "short and plain statement of the claim
10 showing that the pleader is entitled to relief" as required by Federal Rule of Civil Procedure
11 8(a)(2). Accordingly, the Court recommends that the case be dismissed. As Plaintiff is
12 proceeding pro se, the Court recommends giving her an opportunity to amend his complaint.

13 Any party may serve and file specific written objections to this recommendation within
14 fourteen (14) days after being served with a copy. See 28 U.S.C. § 636(b)(1)(c); Fed. R. Civ. P.
15 72(b); Civil Local Rule 72-3. Failure to file objections within the specified time may waive the
16 right to appeal the District Court's order.

17 Plaintiff may wish to seek assistance from the Legal Help Center, a free service of the
18 Volunteer Legal Services Program, by calling (415) 782-8982 or signing up for an appointment on
19 the 15th Floor of the Courthouse, Room 2796. At the Legal Help Center, Plaintiffs may speak with
20 an attorney who may be able to provide basic legal help, but not legal representation. The Court
21 also urges Plaintiffs to obtain a copy of the Pro Se Handbook, available free of charge from the
22 Court's website (www.cand.uscourts.gov) or in the Clerk's Office on the 16th Floor, 450 Golden
23 Gate Avenue, San Francisco, CA.

24 **IT IS SO ORDERED.**

25 Dated: July 19, 2016

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ELIZABETH D. LAPORTE
United States Magistrate Judge